

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

UNITED STATES OF AMERICA,

Plaintiff, : Case No. 3:06-cr-100

-vs- : District Judge Thomas M. Rose
STANLEY ARCHIE, Chief Magistrate Judge Michael R. Merz

Defendant.

REPORT AND RECOMMENDATIONS

This felony case was referred pursuant to Fed. R. Crim. P. for the tender of a plea of guilty pursuant to a plea agreement. Defendant appeared in open court with counsel, Assistant Federal Public Defender Shawn Kelly. He acknowledged that he understood each of the terms of plea agreement individually and that he was entering into voluntarily. He also acknowledged the truth of the facts set forth in the Statement of Facts submitted with the Plea Agreement. Based upon his answers to the Court's questions, the Magistrate Judge finds Defendant to be competent to enter into a plea and not under the influence of any chemical substances which might affect his ability to do so.

Having orally acknowledged his understanding of the Plea Agreement and his acceptance of it, he executed the Agreement in open court. It is respectfully recommended that the Plea Agreement be accepted.

Defendant then tendered a plea of guilty to the Indictment. It is respectfully recommended that the guilty plea be accepted. Because the Statement of Facts is acknowledged by Defendant to

be true and the Magistrate Judge finds that it states an adequate factual basis for a finding of guilt, it is respectfully recommended that Defendant be found guilty as charged.

In anticipation of the Court's acceptance of the guilty plea, Defendant was referred to the United States Probation Service for preparation of a presentence investigation report.

July 26, 2006.

s/ Michael R. Merz
Chief United States Magistrate Judge

NOTICE REGARDING OBJECTIONS

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within ten days after being served with this Report and Recommendations. Pursuant to Fed. R. Civ. P. 6(e), this period is automatically extended to thirteen days (excluding intervening Saturdays, Sundays, and legal holidays) because this Report is being served by one of the methods of service listed in Fed. R. Civ. P. 5(b)(2)(B), (C), or (D) and may be extended further by the Court on timely motion for an extension. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendations are based in whole or in part upon matters occurring of record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections within ten days after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See United States v. Walters*, 638 F. 2d 947 (6th Cir., 1981); *Thomas v. Arn*, 474 U.S. 140, 106 S. Ct. 466, 88 L. Ed. 2d 435 (1985).

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